

EXHIBIT 5

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CHIEF HENRY V. TOBIN III, :
 :
 Plaintiff, :
 :
 v. : C.A. No. 04-1211 MPT
 :
 THOMAS P. GORDON, individually: :
 and in his official capacity; :
 SHERRY FREEBERY, individually :
 and in her official capacity; :
 COLONEL JOHN L. CUNNINGHAM, :
 RETIRED, individually; :
 COLONEL DAVID F. MCALLISTER, :
 individually and in his :
 official capacity; and :
 NEW CASTLE COUNTY, :
 a municipal corporation, :
 :
 Defendants. :

UNSWORN DECLARATION OF KAREN L. TURNER, ESQUIRE
UNDER 28 U.S.C. § 1746, IN SUPPORT OF CHIEF HENRY V. TOBIN III'S
MOTION FOR REASONABLE ATTORNEYS' FEES AND COSTS

I, Karen L. Turner, Esquire, hereby depose and state as follows:

1. I make this declaration on my own personal knowledge, and I will testify hereto if called as a witness.

2. I am a practicing attorney in Philadelphia, Pennsylvania, and also in Wilmington, Delaware where I have offices. I am a member of the Pittsburgh, Pennsylvania law firm of Eckhert, Seamans, Cherrin and Mallot, LLC.

3. I am a member of the Delaware and Pennsylvania Bars. My professional background is attached as Exhibit A. I am a

specialist in bankruptcy law and litigation.

4. In my years of practice, I have become familiar with the market rates for attorneys who engage in bankruptcy litigation in the Third Circuit, including Wilmington and Philadelphia, Pennsylvania.

5. I am also personally familiar with Thomas S. Neuberger's background, skill, reputation and experience in federal court litigation. I believe that the hourly rate of \$450.00 an hour which is sought by Thomas S. Neuberger in this action is very reasonable for an attorney of his background, skill, reputation, and experience.

5. If Mr. Neuberger were practicing bankruptcy law and litigation in Wilmington, Delaware he would have to charge \$500 to \$550 per hour. Delaware attorneys who practice bankruptcy litigation in Delaware with similar background, skill, reputation and experience bill at those rates.

6. I believe that the hourly rate of \$450.00 per hour being sought for Mr. Neuberger's time in the present case is reasonable and is below the range charged by lawyers of comparable background, reputation, experience and skill in the Third Circuit and Wilmington, Delaware for services in bankruptcy litigation of similar complexity which also requires comparable skill and experience.

I declare under penalty of perjury that the foregoing is true and

correct. Executed on April 21, 2008.


KAREN L. TURNER

Tobin/Motions/Attorney's Fees/Turner Fee Declaration

EXHIBIT A

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KAREN LEE "KIT" TURNER

Karen Lee "Kit" Turner is a Member in the Bankruptcy and Creditors' Rights Department. Ms. Turner focuses her practice in bankruptcy, debtor/creditor, banking, and commercial law, including commercial litigation and lender liability.

Her practice covers the full range of commercial litigation and bankruptcy, from small personal Chapter 11 cases to large national cases. She advises firm clients on the full range of bankruptcy and insolvency issues. Sample representations include:

- Nationwide representation of a major insurance company including cases involving fraud, debtor misconduct and complex claim issues such as Environmental, Construction, D&O, Energy, Bad Faith, Coverage and Specialty insurances.
- International representations in insolvency matters involving allegations of fraud.
- Bonding company and surety representations in major Chapter 11 cases throughout the country, including letter of credit, subrogation and other issues.
- Representation of a major airport authority in bankruptcy matters nationwide.
- Representation of a large hospitality company in bankruptcies nationwide involving customers, property owners and others.
- Advise on insurance insolvency matters.
- Advise firm clients on bankruptcy and fraudulent transfer implications of transactions and restructurings and fiduciary duties of officers and directors.
- Advise on intellectual property, environmental and pension issues in bankruptcy.
- Advise clients serving as turn around managers, receivers, plan fiduciaries and chief restructuring officers and specialized brokers providing services to debtors in possession.



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- Advise multiple clients on specialized jurisdictional rules applicable to bankruptcy cases and how to utilize those rules to advantage.
- Retention as Special Counsel to the Debtor at the request of Insurers to structure claim handling for over 30,000 asbestos cases in a Chapter 11 case.
- Represented the equity interests in the largest pre-packaged bankruptcy ever filed in Eastern Pennsylvania in a series of 38 separate bankruptcies involving 23 properties, over 2,000 limited partners, 2,500 residential tenants and over a quarter billion dollars in defaulted obligations. Devised strategy to successfully de-leverage companies, transfer assets to new bankruptcy remote entities and refinance a portion of the first mortgage in a structured finance transaction. Bankruptcy lasted less than ninety days.
- Represented a major bank in the bankruptcy and related litigation of a major borrower with nine separate credit facilities, including fraud and dischargeability litigation. Defended bank against charges that draws on the line of credit were fraudulently made by a dishonest employee.
- Represented the largest privately held automobile dealer and leasing company in the bankruptcy and related litigation involving a fleet leasing company specializing in the Florida rental car market. Also pursued fraudulent conveyance claims and represented same entity when vehicle sublessor filed bankruptcy in Orlando, Florida.
- Represented a major bank when it was sued on allegations that it was responsible for torts caused by its borrower in one of the largest industrial disasters since the Triangle Shirt Company fire. Successfully removed litigation from an unfriendly forum and caused a transfer to the location of the tortfeasor's bankruptcy. Then obtained injunction preventing third party claims against bank and declared that bank had no liability.
- Represented a major law firm against claims that it had caused the bankruptcy and financial failure of a real estate developer client.
- Represented an industrial equipment manufacturer in bankruptcy caused by difficulties resulting from patent litigation.
- Represented landlords of commercial and retail space in large bankruptcy cases pending in New York and Delaware
- Representing large creditors, secured and unsecured Chapter 11s nationwide.
- Represented a former CEO of a major debtor on whether employment contract claims were discharged by the bankruptcy.
- Represented a media placement and advertising agency, placing over \$50 million a year in advertising, in both Chapter 11 and related litigation when its customer the Psychic Friends

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Network ceased to pay for airtime and defamed agency in claiming that it had been paid. Obtained defamation verdict at trial against principal.

- Represented Unsecured Creditors' Committees in two separate cases involving deeply divided and conflicted committees which needed special assistance in overcoming their difficulties and functioning in cases where highly questionable transactions had occurred.
- Represented one of the country's largest swimwear manufacturers in the acquisition of trademark and design assets in the bankruptcy of one of its competitors.
- Represented a health care company looking to acquire assets of financially distressed psychiatric hospitals.
- Represented an equipment lessor of major hospital equipment in the bankruptcy of large urban hospitals.
- Represented the Committee for the University, a non-profit entity formed by the faculty, staff, students and alumni of Allegheny University of the Health Sciences and the MCP-Hahnemann Medical School in all aspects of the AHERF bankruptcy sale of the hospitals and transition of the university.
- Represented major bottling and distribution company in wind-down and sale of business and post-closing disputes with creditors.
- Provided bankruptcy analysis to restructure a cogeneration facility's liabilities and to renegotiate contracts.
- Representation of creditors in individual bankruptcy cases involving fraud issues.
- Preference and fraudulent transfer defense in cases nationwide.

Ms. Turner is a member of the Eastern District Bankruptcy Conference, the American Bankruptcy Institute, Commercial Law League of America, Turnaround Management Association, and the American Bar Association. She has spoken on general bankruptcy topics at legal seminars and to industry groups and specialized topics relevant to intellectual property interest and insurers.

Ms. Turner received her law degree, cum laude, and Order of the Coif, from Villanova University School of Law, where she was a member of the Villanova Law Review. She received her undergraduate degree from Ursinus College. Ms. Turner is admitted to practice in Pennsylvania and Delaware and before all Pennsylvania and Delaware courts, the U.S. District Court for the Eastern and Middle Districts of Pennsylvania, the U.S. District Court for the District of Delaware and the U.S. Court of Appeals for the Third Circuit.

Ms. Turner holds an AV[®] rating from Martindale-Hubbell.